

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Aiken County

Edgar W. Dickson, Circuit Court Judge

RECEIVED

DEC 29 2014

S.C. Supreme Court

THADDEUS CURRY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000839

SUPPLEMENTAL APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

THADDEUS LORENZO CURRY,)
Petitioner,)

2008 CP02 1271
2004 GS 02 839, 838

VS.)

STATE OF SOUTH CAROLINA,)

AMENDMENT TO APPLICATION FOR POST CONVICTION RELIEF

COMES NOW Thaddeus Curry, hereinafter referred to as Petitioner and brings his Amendment to Application for Post Conviction Relief and shows the Court as follows:

1. Petitioner shows that he is subject to the jurisdiction of this Court since he was sentenced in Aiken County General Sessions.

2. Petitioner shows that he is currently being held at the McCormick Correctional Institute pursuant to Petitioner's sentence of imprisonment on Murder and Possession of a Firearm During the Commission of a Crime.

3. Petitioner shows that he was sentenced in Aiken County General Sessions on May 13, 2004 before the Honorable Reginald I. Lloyd. Petitioner was sentenced to life imprisonment on one count of Murder and five years on one count of Possession of a Firearm During the Commission of a Crime.

4. Petitioner shows that he was found guilty by a jury on both charges.

FILED

4-8-09

L. J. Goodrich
J.C.P. & C.S.

Anita Knoepfle 830
Deputy Clerk

5. Petitioner shows that at the time of his sentencing, he was represented by Michael Chesser and his address is 104 Park Avenue SW, Aiken, SC 29801.

6. Petitioner shows that he appealed this sentence of conviction to the Court of Appeals which was heard on June 15, 2006 and filed on October 9, 2006. Petitioner was then represented by Robert Dudek of the Appellate Defender's Office. A further appeal was taken to the South Carolina Supreme Court which affirmed said conviction on April 3, 2008. The original PCR was filed on July 24, 2008.

STATEMENT OF CLAIM

7. Petitioner shows that he was denied effective assistance of counsel both at the trial and appellate level.

8. Petitioner shows that trial counsel was appointed to represent him and failed to provide or afford adequate or effective assistance of counsel and failed to properly investigate the case.

9. Petitioner shows that Appellate counsel was appointed to represent him in order to raise all possible issues for appeal that arose at the trial level and he failed to do so.

ARGUMENT AND CITATION OF AUTHORITY

10. Petitioner was not properly informed of nor did he understand all of the defenses that were available to him in his Murder charge as Trial counsel did not explain to him the various degrees of Homicide that he could be convicted of including Voluntary and Involuntary Manslaughter. This was done in violation of Petitioner's due process as guaranteed by the Fourteenth Amendment of the U. S. Constitution by Article One, Section One, Paragraph One of

the Constitution of the State of Georgia.

11. Petitioner shows that when ineffective assistance of counsel is alleged as a ground for relief on a PCR, it must be demonstrated that Trial counsel's performance was so deficient as to undermine the proper functioning of the legal system which failed to produce a fair and just result on behalf of the Defendant. Strickland vs. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed. 2nd 674, 692 (1984).

12. Petitioner shows that in order to measure the performance of Trial counsel, it must be demonstrated that counsel performed within the range of reasonable competence as required in criminal cases. It is presumed that counsel would have rendered adequate assistance, however, this presumption may be overcome. Strickland at 674

13. Petitioner shows that according to Strickland, a two prong test is used in evaluating allegations of ineffective assistance of counsel. Petitioner must first demonstrate that counsel's performance was deficient and which is measured by the reasonableness of professional standards. Petitioner shows further that counsel's proven deficient performance must have so prejudiced the Petitioner that there is a reasonable probability that these unprofessional errors significantly affected the outcome of the case. In other words, the result of the proceedings would have been different had counsel not performed in an unprofessional and deficient manner.

14. Petitioner shows that he was rendered ineffective assistance according to the Strickland standard in that counsel satisfied the first prong of Strickland by failing to act reasonably and competently by neglecting to give Petitioner all of the evidence in his case and failing to afford Petitioner an opportunity to evaluate and receive competent counsel's advice.

15. Petitioner shows that the indictment against him does not set forth the elements of the crime sufficiently to satisfy the statutes he was charged and therefore, a Motion to Quash said indictment should have been filed by his counsel who was ineffective for failing to do so. The facts alleged in the indictment are not supported by the evidence and do not sufficiently charge Petitioner with a violation of law. Furthermore, Trial Counsel failed to Move to quash his indictment and failed to move for a continuance as he was indicted and tried on the same day.

16. Petitioner shows that Trial counsel was also ineffective in one or more of the following particulars:

- A. Trial counsel failed to conduct an independent investigation of mitigating evidence;
- B. Counsel failed to interview obvious defense witnesses and investigate sources for impeachment;
- C. Counsel failed to develop evidence that Petitioner's Co-Defendant was the one who committed the crime and failed to call his alibi witnesses.
- D. Counsel failed to advise the Petitioner's of his right to appeal and that he was not properly advised under Boykin vs. Alabama;
- E. Trial counsel failed to properly keep Petitioner informed as to the evidence against him and failed to provide him copies of his file
- F. Trial Counsel failed to object to the line-up/ identification as impermissibly suggestive.
- G. Trial counsel failed to file for Speedy Trial
- H. Trial counsel failed to raise the issue of inconsistent dates of his indictment.

Defendant's Indictment specifically shows that it was filed on May 6, 2004, however, the Grand Jury did not convene until May 10, 2004 and no Motion to Quash said Indictment was ever filed. Furthermore, Defendant shows that no copy of said Indictment was ever furnished to the Defendant prior to Trial and his Trial counsel never moved for a continuance in order to properly investigate whether or not a Motion to Quash said Indictment should have been filed.

17. Appellate counsel failed to raise these issues on Appeal.

18. Petitioner shows that Trial counsel failed to afford adequate assistance of counsel by failing to visit him at the jail sufficiently to advise the Petitioner of all of the evidence against him and provide the Petitioner with an opportunity to make an intelligent and knowing decision as to whether or not to enter a guilty plea in violation of Petitioner's constitutional and due process rights under the authority aforesaid.

19. Petitioner shows that Trial counsel knew that there was a motive for Co-Defendant Savage to lie on him in as much as Petitioner had been involved in an Attempted Armed Robbery earlier in the year and had given a full confession including implicating Defendant Savage. This fact was known to Trial counsel and he failed to cross examine or impeach Savage on his testimony.

20. Petitioner shows that the Solicitor's Office failed to act on his Arrest Warrant within ninety days of having received same from the Clerk of Court pursuant to South Carolina Rules of Procedure, Rule 3c and therefore, the Court lacked subject matter jurisdiction for trying the case.

21. Petitioner shows that Trial counsel never argued the various inconsistencies

between the testimony of the State's witnesses in his closing argument, specifically, the description of the Petitioner, what clothes he was wearing that night, what car he was driving and who he was with.

22. Petitioner shows that Trial counsel failed to poll the jury.

23. Petitioner shows that he never received notice of the possibility of being sentenced to Life Without Parole and this was not discussed with Petitioner prior to his trial nor was his potential sentence discussed.

24. Petitioner shows that Appellate counsel failed to thoroughly discuss all issues of his trial and Pre-trial Motions with Petitioner prior to perfecting the appeal and failed to raise all relevant issues previously discussed for the Appellate Court to review and determine whether or not Petitioner received a fair trial.

WHEREFORE, Petitioner asks that this Amendment to his previously filed Application for Post Conviction Relief be allowed filed and incorporated and relate back to the date of his original filing and that all previous prayers of his Application for Post Conviction Relief be included herein and that this Court direct the Respondent to answer as required by law and that the matter be set down for a hearing on all issues between the parties and that appropriate Findings of Fact and Conclusions of Law be made and that Petitioner's conviction in Aiken County General Sessions Case Number 2004-GS-02-838 and 2004-GS-02-839 be set aside as void and that this Court issue an Order granting Petitioner's release and setting aside his conviction and that he be discharged from custody INSTANTER and that he have such other and further relief as the Court deems just and proper.

This _____ day of April, 2009.



WILLIAM J. SUSSMAN
ATTORNEY FOR PETITIONER

POST OFFICE BOX 6005
NORTH AUGUSTA, SC 29841
(803) 278-7227
STATE BAR NO: 005444

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Amendment to Application for Post Conviction has been served upon the following person by placing a copy of the same into the United States mail with the appropriate postage affixed thereto and addressed as follows:


SC Attorney General's Office
Attn: Mary Williams
Post Office Box 11549
Columbia, SC 29211

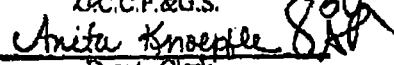
This 17 day of April, 2009.



WILLIAM T. SUSSMAN
ATTORNEY FOR CLAIMANT

POST OFFICE BOX 6005
NORTH AUGUSTA, S. C. 29861
(803) 278-7227
SOUTH CAROLINA NO.: 005444

FILED 4-8-09


Lij Godesic
S.C.P. & G.S.


Anita Knoepfle
Deputy Clerk

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN)	SECOND JUDICIAL CIRCUIT
THADDEUS LORENZO CURRY,)	
Petitioner,)	2008 CP02 1271
)	2004 GS 02 839, 838
)	
VS.)	
)	
STATE OF SOUTH CAROLINA,)	


SECOND AMENDMENT TO APPLICATION FOR POST CONVICTION RELIEF

COMES NOW Thaddeus Curry, hereinafter referred to as Petitioner and files his Second Amendment to his Application for Post Conviction Relief and amends by adding an additional ground in support of his request for Post Conviction Relief by showing that the Prosecutor in this case violated Petitioner's due process rights by offering the testimony of Jeremy Simuels at trial which he knew or should have known would be perjured. Simuels made several different statements about what happened that night and yet the prosecution still had the witness take the stand and defense counsel failed to properly object.

WHEREFORE, Petitioner prays that this Second Amendment to his previously filed Application for Post Conviction Relief be allowed filed and incorporated and relate back to the date of his original filing and that all previous prayers of his Application for Post Conviction Relief be included herein and that he have such other and further relief as the Court deems just and proper.

This 11 day of May, 2009.

FILED 5-13-09
Shirley Howard
 I.C.C.P.A.G.A.
8:30 AM
 Deputy Clerk



WILLIAM J. SUSSMAN
ATTORNEY FOR PETITIONER

POST OFFICE BOX 6005
NORTH AUGUSTA, SC 29841
(803) 278-7227
STATE BAR NO: 005444

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Second Amendment to Application for Post Conviction has been served upon the following person by placing a copy of the same into the United States mail with the appropriate postage affixed thereto and addressed as follows:

SC Attorney General's Office
Attn: Mary Williams
Post Office Box 11549
Columbia, SC 29211

This 11 day of May, 2009.



WILLIAM J. WEISSMAN
ATTORNEY FOR CLAIMANT

POST OFFICE BOX 6005
NORTH AUGUSTA, S. C. 29861
(803) 278-7227
SOUTH CAROLINA NO.: 005444

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

THADDEUS LORENZO CURRY,)
Petitioner,)

2008 CP02 127 t
2004 GS 02 839, 838

VS.)

STATE OF SOUTH CAROLINA,)

COPY
ORIGINAL FILED
JUL 24 2009
8:30 am
AIKEN COUNTY
CLERK OF COURT

THIRD AMENDMENT TO APPLICATION FOR POST CONVICTION RELIEF

COMES NOW Thaddeus Curry, hereinafter referred to as Petitioner and files his Third Amendment to his Application for Post Conviction Relief and shows the Court as follows:

1. Petitioner amends and adds the following grounds upon which he seeks relief:

- A. The State's admission of perjured testimony in its case of in chief.
- B. The State's violation of Brady vs. Maryland
- C. The State's admission of perjured testimony.
- D. Additional grounds for ineffective assistance of counsel

2. Petitioner shows that the State put up the perjured testimony of Jeremy Simuels at the trial of his case when it knew or should have known that said testimony was perjured. The witness Simuels made several different statements about what happened the night of the Murder and it is clear from the Rule 5 materials in comparison to the testimony of the witness on the stand that Mr. Simuels' testimony was entirely inconsistent and contradictory and quite obviously he was not telling the truth about the occurrences of that night.

3. Petitioner shows that a review of the Rule 5 Discovery reflects contradictory statements testified to by Witness Simuels in that the Affidavit signed prior to trial by witness Simuels should have been included in the Discovery material and certainly should have been

produced to the defense pursuant to Brady vs. Maryland. Any inconsistent statement of an eye witness is surely exculpatory and a Brady violation occurs regardless of the good or bad faith of the prosecutor. State vs. Gibson, 514 S. E. 2d 320 (1999). A conviction obtained by the knowing use of perjured testimony is fundamentally unfair and said conviction must be set aside if there is any reasonable likelihood that said false testimony affected the outcome of the verdict. US v. Bagley, 473 US 678, 105 Sup. Ct. 3381-82.

4. Petitioner shows that if it is demonstrated that the prosecutor engaged in misconduct and improperly or illegally failed to disclose the Brady information aforesaid, then any subsequent mistrial is barred under the double jeopardy clause of the Constitution.

5. Petitioner shows that should false testimony be elicited at trial, this would be in violation of 16-9-20 which is the subornation of perjury statute and in violation of 16-9-10 which is the use of perjured testimony at trial.

6. Petitioner shows that all during his trial, he continually requested that his trial counsel object to this perjured testimony from Simuels and yet trial counsel failed to do so which is clearly an additional ground for ineffective assistance of counsel to be combined with the other aforesaid allegations.

7. The Trial Court erred in not allowing counsel to cross examine his Co-Defendant on whatever deals they had made with the Prosecution in exchange for their testimony. This information should have been produced as Brady material as it clearly would have shown the bias of the Co-Defendants' testimony which certainly would have affected the outcome of the case.

8. The Trial Court erred in failing to allow the admission of the 911 transcript which clearly conflicted with the testimony of Coursey and deprived the Defendant of due process and a fair trial.

9. Defendant shows that Appellate counsel failed to raise the issue on appeal of the Court's limitation of trial counsel's ability to use the 911 transcript to impeach Coursey's testimony. Trial counsel should have already raised the issue of a Brady violation wherein the

prosecution failed to provide information of Simuels change in testimony from his statement. Simuels gave a statement that indicated he was not present during the shooting, however, at trial he clearly testified in direct contravention of his statement to the police earlier and advised that he was present and that Defendant was the shooter. The prosecution had to have known this information prior to trial and failed to give it to the defense clearly in violation of Brady vs. Maryland existing case law.

10. Defendant shows that Trial counsel erred in failing to object to the introduction of Simuels' testimony at trial or to move to strike thereafter as it was clearly in violation of Brady vs. Maryland. In addition, even though this issue may not have been preserved for appeal, Appellate counsel should have raised it anyway as it was clearly erroneous and was error on the face of the record.

11. Defendant shows that Trial counsel erred in failing to subpoena Ronald Glenn whose statement drastically differed from that of Coursey's and Glenn was known to trial counsel prior to the commencement of trial.

12. Trial counsel rendered ineffective assistance counsel by failing to have the 911 tape available to introduce as evidence in anticipation of the Court's objection to the use of the transcript. Coursey was one of the main witnesses against defense counsel and on the 911 tape, he could not identify anyone and yet in trial, he pointed out the Defendant which clearly was an important piece of evidence against the Defendant.

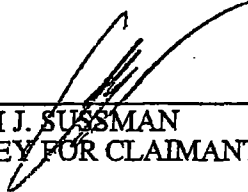
WHEREFORE, Petitioner prays that this Third Amendment to his previously filed Application for Post Conviction Relief be allowed filed and incorporated and relate back to the date of his original filing and that all previous prayers of his Application for Post Conviction Relief be included herein and that he have such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Third Amendment to Application for Post Conviction has been served upon the following person by placing a copy of the same into the United States mail with the appropriate postage affixed thereto and addressed as follows:

SC Attorney General's Office
Attn: Mary Williams
Post Office Box 11549
Columbia, SC 29211

This 22 day of July, 2009.



WILLIAM J. SUSSMAN
ATTORNEY FOR CLAIMANT

POST OFFICE BOX 6005
NORTH AUGUSTA, S. C. 29861
(803) 278-7227
SOUTH CAROLINA NO.: 005444

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

THADDEUS LORENZO CURRY,)
Petitioner,)

2008 CP02 1271
2004 GS 02 839, 838

VS.)

STATE OF SOUTH CAROLINA,)

FILED 7-30 2009
[Signature]
P.&G.S. 8:30 AM
[Signature]
Deputy Clerk

SUPPLEMENT TO APPLICATION FOR POST CONVICTION RELIEF

COMES NOW Thaddeus Curry, hereinafter referred to as Petitioner and herein supplements his previously filed PCR Application for Relief and shows the Court as follows:

1. Defendant shows that he was charged with Murder and Possession of a Firearm During the Commission of a Crime for which he was tried and convicted on May 13, 2004.
2. Defendant was subsequently sentenced to life in prison without the possibility of parole under the existing South Carolina statute.
3. Defendant shows that at no time prior to his trial or sentencing was he ever served with notice that the State would seek a life sentence without the possibility of parole. Defendant submits that this is in violation of his due process rights and his constitutional rights under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution as it applies to the State of South Carolina.
4. Defendant shows that other statutes in South Carolina particularly require the State to serve written notice if the State seeks life without parole in other less serious crimes and therefore, it is a violation of equal protection to not serve the Defendant with notice of the State's intent to seek life without parole if convicted of Murder.
5. Defendant shows that his trial counsel was ineffective in failing to advise him that

he could have faced anywhere between thirty years and life without parole if convicted of Murder. Defendant shows further that almost no effort was made by trial counsel to gather any mitigation evidence on his behalf in the event of a conviction as evidenced by the sentencing transcript.

6. Defendant shows that defense counsel did not seek funds to employ a mitigation investigator as authorized under Ake vs. Oklahoma and Wiggins vs. Smith and therefore, defense counsel was not prepared to present the Court with mitigation at sentencing.

7. Defendant shows that his rights to be properly represented in regards to the presentation of mitigation evidence were violated under due process and the cases previously mentioned.

WHEREFORE, Defendant prays that this Supplement be allowed filed and incorporated into his previously filed Application for Post Conviction Relief and that he be afforded a new trial or in the alternative, a new sentencing and that he have such other relief as the Court deems just and proper.

This 28 day of July, 2009.



WILLIAM J. SUSSMAN
ATTORNEY FOR PETITIONER


POST OFFICE BOX 6005
NORTH AUGUSTA, SC 29841
(803) 278-7227
STATE BAR NO: 005444

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Supplement to Application for Post Conviction has been served upon the following person by placing a copy of the same into the United States mail with the appropriate postage affixed thereto and addressed as follows:

SC Attorney General's Office
Attn: Mary Williams
Post Office Box 11549
Columbia, SC 29211

This 27 day of July, 2009.



WILLIAM J. SUSEMAN
ATTORNEY FOR CLAIMANT

POST OFFICE BOX 6005
NORTH AUGUSTA, S. C. 29861
(803) 278-7227
SOUTH CAROLINA NO.: 005444

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN)	SECOND JUDICIAL CIRCUIT
THADDEUS LORENZO CURRY,)	
Petitioner,)	2008 CP02 127
)	2004 GS 02 839, 838
VS.)	
STATE OF SOUTH CAROLINA,)	

PETITION FOR POST CONVICTION RELIEF (RECAST)

COMES NOW Thaddeus Curry and herein recasts his previously filed Petition for Post Conviction Relief and the Amendments previously filed in order to combine them into one document which will make it easier for the Court to review so Petitioner resummaries his previously filed Petition and amendments as follows:

1. Petitioner shows that he is subject to the jurisdiction of this Court since he was sentenced in Aiken County General Sessions.
2. Petitioner shows that he is currently being held at the McCormick Correctional Institute pursuant to Petitioner's sentence of imprisonment on Murder and Possession of a Firearm During the Commission of a Crime.
3. Petitioner shows that he was sentenced in Aiken County General Sessions on May 13, 2004 before the Honorable Reginald I. Lloyd. Petitioner was sentenced to life imprisonment on one count of Murder and five years on one count of Possession of a Firearm During the Commission of a Crime.
4. Petitioner shows that he was found guilty by a jury on both charges.
5. Petitioner shows that at the time of his sentencing, he was represented by Michael Chesser and his address is 104 Park Avenue SW, Aiken, SC 29801.

6. Petitioner shows that he appealed this sentence of conviction to the Court of Appeals which was heard on June 15, 2006 and filed on October 9, 2006. Petitioner was then represented by Robert Dudek of the Appellate Defender's Office. A further appeal was taken to the South Carolina Supreme Court which affirmed said conviction on April 3, 2008. The original PCR was filed on July 24, 2008.

STATEMENT OF CLAIM

7. Petitioner shows that he was denied effective assistance of counsel both at the trial and appellate level.

8. Petitioner shows that trial counsel was appointed to represent him and failed to provide or afford adequate or effective assistance of counsel and failed to properly investigate the case.

9. Petitioner shows that Appellate counsel was appointed to represent him in order to raise all possible issues for appeal that arose at the trial level and he failed to do so.

ARGUMENT AND CITATION OF AUTHORITY

10. Petitioner was not properly informed of nor did he understand all of the defenses that were available to him in his Murder charge as Trial counsel did not explain to him the various degrees of Homicide that he could be convicted of including Voluntary and Involuntary Manslaughter. This was done in violation of Petitioner's due process as guaranteed by the Fourteenth Amendment of the U. S. Constitution by Article One, Section One, Paragraph One of the Constitution of the State of Georgia.

11. Petitioner shows that when ineffective assistance of counsel is alleged as a ground for relief on a PCR, it must be demonstrated that Trial counsel's performance was so deficient as to undermine the proper functioning of the legal system which failed to produce a fair and just result on behalf of the Defendant. Strickland vs. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed. 2nd 674, 692 (1984).

12. Petitioner shows that in order to measure the performance of Trial counsel, it must be demonstrated that counsel performed within the range of reasonable competence as required in criminal cases. It is presumed that counsel would have rendered adequate assistance, however, this presumption may be overcome. Strickland at 674

13. Petitioner shows that according to Strickland, a two prong test is used in evaluating allegations of ineffective assistance of counsel. Petitioner must first demonstrate that counsel's performance was deficient and which is measured by the reasonableness of professional standards. Petitioner shows further that counsel's proven deficient performance must have so prejudiced the Petitioner that there is a reasonable probability that these unprofessional errors significantly affected the outcome of the case. In other words, the result of the proceedings would have been different had counsel not performed in an unprofessional and deficient manner.

14. Petitioner shows that he was rendered ineffective assistance according to the Strickland standard in that counsel satisfied the first prong of Strickland by failing to act reasonably and competently by neglecting to give Petitioner all of the evidence in his case and failing to afford Petitioner an opportunity to evaluate and receive competent counsel's advice.

15. Petitioner shows that the indictment against him does not set forth the elements of the crime sufficiently to satisfy the statutes he was charged with and provide constitutional notice to the Defendant and therefore, a Motion to Quash said indictment should have been filed by his counsel who was ineffective for failing to do so. The facts alleged in the indictment are not supported by the evidence and do not sufficiently charge Petitioner with a violation of law. Furthermore, Trial Counsel failed to Move to quash his indictment and failed to move for a continuance as he was indicted and tried on the same day.

16. Petitioner shows that Trial counsel was also ineffective in one or more of the following particulars:

- A. Trial counsel failed to conduct an independent investigation of mitigating evidence;
- B. Counsel failed to interview and call obvious defense witnesses and investigate sources for impeachment;
- C. Counsel failed to develop evidence that Petitioner's Co-Defendant was the one who committed the crime and failed to call his alibi witnesses.
- D. Counsel failed to advise the Petitioner's of his right to appeal and that he was not properly advised under Boykin vs. Alabama;
- E. Trial counsel failed to properly keep Petitioner informed as to the evidence against him and failed to provide him copies of his file
- F. Trial Counsel failed to object to the line-up/ identification as impermissibly suggestive.
- G. Trial counsel failed to file for Speedy Trial
- H. Trial counsel failed to raise the issue of inconsistent dates of his indictment.

Defendant's Indictment specifically shows that it was filed on May 6, 2004, however, the Grand Jury did not convene until May 10, 2004 and no Motion to Quash said Indictment was ever filed. Furthermore, Defendant shows that no copy of said Indictment was ever furnished to the Defendant prior to Trial and his Trial counsel never moved for a continuance in order to properly investigate whether or not a Motion to Quash said Indictment should have been filed.

17. Appellate counsel failed to raise these issues on Appeal.

18. Petitioner shows that Trial counsel failed to afford adequate assistance of counsel by failing to visit him at the jail sufficiently to advise the Petitioner of all of the evidence against him and provide the Petitioner with an opportunity to make an intelligent and knowing decision as to whether or not to enter a guilty plea in violation of Petitioner's constitutional and due process rights under the authority aforesaid.

19. Petitioner shows that Trial counsel knew that there was a motive for Co-

Defendant Savage to lie on him in as much as Petitioner had been involved in an Attempted Armed Robbery earlier in the year and had given a full confession implicating Defendant Savage. This fact was known to Trial counsel and he failed to cross examine or impeach Savage on his testimony.

20. Petitioner shows that the Solicitor's Office failed to act on his Arrest Warrant within ninety days of having received same from the Clerk of Court pursuant to South Carolina Rules of Procedure, Rule 3c and therefore, the Court lacked subject matter jurisdiction for trying the case.

21. Petitioner shows that Trial counsel never argued the various inconsistencies between the testimony of the State's witnesses in his closing argument, specifically, the description of the Petitioner, what clothes he was wearing that night, what car he was driving and who he was with.

22. Petitioner shows that Trial counsel failed to poll the jury.

23. Petitioner shows that he never received notice of the possibility of being sentenced to Life Without Parole and this was not discussed with Petitioner prior to his trial nor was his potential sentence discussed.

24. Petitioner shows that Appellate counsel failed to thoroughly discuss all issues of his trial and Pre-trial Motions with Petitioner prior to perfecting the appeal and failed to raise all relevant issues previously discussed for the Appellate Court to review and determine whether or not Petitioner received a fair trial.

25. Defendant shows that he was charged with Murder and Possession of a Firearm During the Commission of a Crime for which he was tried and convicted on May 13, 2004.

26. Defendant was subsequently sentenced to life in prison without the possibility of parole under the existing South Carolina statute.

27. Defendant shows that at no time prior to his trial or sentencing was he ever served with notice that the State would seek a life sentence without the possibility of parole. Defendant

submits that this is in violation of his due process rights and his constitutional rights under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution as it applies to the State of South Carolina.

28. Defendant shows that other statutes in South Carolina particularly require the State to serve written notice if the State seeks life without parole in other less serious crimes and therefore, it is a violation of equal protection to not serve the Defendant with notice of the State's intent to seek life without parole if convicted of Murder.

29. Defendant shows that his trial counsel was ineffective in failing to advise him that he could have faced anywhere between thirty years and life without parole if convicted of Murder. Defendant shows further that almost no effort was made by trial counsel to gather any mitigation evidence on his behalf in the event of a conviction as evidenced by the sentencing transcript.

30. Defendant shows that defense counsel did not seek funds to employ a mitigation investigator as authorized under Ake vs. Oklahoma and Wiggins vs. Smith and therefore, defense counsel was not prepared to present the Court with mitigation at sentencing.

31. Defendant shows that his rights to be properly represented in regards to the presentation of mitigation evidence were violated under due process and the cases previously mentioned.

32. Defendant shows that the Prosecutor in this case violated Petitioner's due process rights by offering the testimony of Jeremy Simuels at trial which he knew or should have known would be perjured. Simuels made several different statements about what happened that night and yet the prosecution still had the witness take the stand and defense counsel failed to properly object.

33. Defendant shows that under Brady vs. Maryland that the Prosecutor should have revealed to the defense the inconsistent statements of Mr. Simuels prior to trial. The

inconsistency in these various statements by Simuels that were known to the Prosecutor constituted exculpatory material that should have been produced to the Defendant under Brady vs. Maryland and therefore, deprived the Defendant of his fundamental right to a fair trial and due process of law.

34. Defendant shows that the Prosecutor advised the Court during pre-trial Motions that he was charged with Attempted Armed Robbery under Indictment Number 04-GS-02-037 when in reality that Indictment did not exist and Defendant was never tried for that charge. Defendant refers to page three of the Trial Transcript wherein the Prosecutor improperly prejudiced the Court against him and his Trial counsel failed to object. No copies of any Indictments were given to the Defendant prior to trial so the Defendant had no notice before this case was called for trial in exactly what it was he was facing. This is in violation of the Sixth Amendment of the U.S. Constitution and the applicable South Carolina statutes. Defendant cites specifically that in other cases, three days notice is required to be given to counsel prior to trial and yet that was not done in this case. Trial counsel was not adequately prepared to go forward with the case when it was called for trial and defense counsel should have moved for a continuance and failing to do violated the Defendant's rights.

35. Defendant shows that the Indictments against him were invalid and failed to provide notice of the time or location to the Defendant so he could properly prepare his alibi defense. Defendant shows that Aiken is one of the larger counties in the state and without knowing exactly where the crime was alleged to have occurred or at what time, Defendant was at a disadvantage at attempting to prepare any type of alibi defense. This disadvantage severely hampered the Defendant's right to a fair trial with due process of law and also violated the Fifth and Sixth Amendments to the United States Constitution in that his trial counsel was not effective in quashing these Indictments prior to trial and Defendant was not adequately put on notice of where the crimes he was charged with occurred.

36. Defendant attaches to this Recast Petition his originally filed PCR Application as Exhibit "A".

WHEREFORE, Petitioner prays that this Recast Amendment be allowed filed and incorporated and relate back to the date of his original filing and that all previous prayers of his Application for Post Conviction Relief be included herein and that he have such other and further relief as the Court deems just and proper.

This 19 day of January, 2010.



WILLIAM J. SUSSMAN
ATTORNEY FOR PETITIONER

POST OFFICE BOX 6005
NORTH AUGUSTA, SC 29841
(803) 278-7227
STATE BAR NO: 005444

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of AIKEN)
Thaddeus L. CURRY # 301924)
 Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

2008-P-02-1271
2004-GS-02-839,838

Filed 7-24-08

Aiken

C.C.P. & G.S. - Aiken County

Christy Knapp

Deputy Clerk

Trial Judge

Court Reporter

General Sessions App. Clk.

Appointed Any.

v.

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention AIKEN COUNTY DETENTION CENTER

2. Name and location of Court which imposed sentence AIKEN COUNTY COURT

3. Name(s) of co-defendant(s) (if any) ANTHONY JEROME SAVAGE,
and JEREMY SIMUEL

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) MURDER 2004-GS-02-839
 - (b) POSSESSION OF A FIREARM DURING THE-

(c) COMMISSION OF A VIOLET CRIME 2004-65-02-8

5. The date upon which sentence was imposed and the terms of the sentence:

(a) MAY-13-04

(b) LIFE IMPRISONMENT FOR MURDER

(c) FIVE YEARS CONSECUTIVE FOR POSSESSION FOR A FIREARM.

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. The South Carolina COURT OF APPEALS

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. AFFIRMED

ii. _____

iii. _____

(c) the date of each such result:

i. HEARD JUNE 15, 2006, FILED OCTOBER 9, 2006

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. SC. Judicial Department - OPINION 4159

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____
 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) AFTER-DISCOVERED EVIDENCE
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) SEE REVERSE SIDE FOR ANSWER
- (b) SEE REVERSE SIDE FOR ANSWER
- (c) _____

12. Prior to this application have you filed with respect to this conviction: NO

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

QUESTION II

(A) COUNSEL DID NOT TIMELY MOVE TO QUASH MY INDICTMENTS, COUNSEL DID NOT CHALLENGE THE LEGALITY AND SUFFICIENCY OF THE PROCESS OF STATE GRAND JURY BEFORE THE JURY RENDERED A VERDICT IN ORDER TO PRESERVE THE ERROR FOR DIRECT APPELLATE REVIEW.

QUESTION II.

(B) AFTER DISCOVERED EVIDENCE

I HAVE A ORIGINAL AFFIDAVIT AD TESTIMONIA FROM MY CO-DEFENDANT ANTHONY JEROME SAVAGE Admitting That he OPENLY LIED AT MY TRIAL TO GET A REDUCTION IN his Sentence.

((Please see Attached COPY OF AFFIDAVIT))
AD TESTIMONIA ON BACK OF POST-
CONVICTION RELIEF APPLICATION

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Please see Reverse side FOR ANSWER
- (b) Please see Reverse Side FOR ANSWER
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Michael Chesser ATTORNEY AT LAW
PO Box 1018 104 PARK Avenue SW Aiken SC 29802
- ii. ROBERT M. DUDEK, South Carolina Commission
on Indigent Defense PO. Box 1159 Columbia, SC 29211
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Michael Chesser - At MY TRIAL
- ii. Robert M. Dudek - on MY Appeal
- iii. _____

QUESTION 16. INEFFECTIVE ASSISTANCE OF COUNSEL

(A) COUNSEL DID NOT TIMELY MOVE TO QUASH MY INDICTMENTS, COUNSEL DID NOT CHALLENGE THE LEGALITY AND SUFFICIENCY OF THE PROCESS OF STATE GRAND JURY BEFORE THE JURY RENDERED A VERDICT IN ORDER TO PRESERVE THE ERROR FOR DIRECT APPELLATE REVIEW.

THIS GROUND HAS NOT PREVIOUSLY BEEN PRESENTED TO ANY COURT BECAUSE THIS GROUND WAS NOT PRESERVED FOR DIRECT APPELLATE REVIEW DURING MY TRIAL.

QUESTION 16.

(B) AFTER DISCOVERED EVIDENCE WAS PRESENTED TO ME AFTER MY TRIAL AND I WAS TOLD BY MR. ROBERT M. DUDERK MY APPEAL LAWYER THAT I COULD NOT BRING THIS GROUND UP ON DIRECT APPEAL.

19. State clearly the relief you seek in filing this application:

Conviction and sentence Reversed and Remanded
For NEW TRIAL OR Vacate The sentence
and Charges Against My person On Equities and merits of WI

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

County of MCCORMICK)

VERIFICATION

I, Thaddeus L. Curry #301924, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Thaddeus L. CURRY #301924

SWORN to and subscribed before me this 21 day of July, 2008.

Perry G. Minton (L.S.)
Notary Public

My Commission Expires: Feb 28, 2018

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Thaddeus L. CURRY #301924, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Thaddeus L. CURRY #301924
Applicant

SWORN or affirmed to and subscribed before me this

21 day of July, 2008.

Penny Minter
Notary Public

My Commission Expires: Feb 28, 2019

AFFIDAVIT AD TESTIMONIA

I (Anthony Savage) am making this statement on my own free will. I have not been threatened or harmed in any way to make this statement. On May of 2004 I testified against Thaddeus Curry in a murder case. I (Anthony Savage) was threatened by the police investigator (Billy Fleury) and the solicitor to lie in court. And if I (Anthony Savage) didn't testify I (Anthony Savage) would receive a Life sentence... I was scared for my life and I (Anthony Savage) openly lied in court to get a reduction in my sentence. And I (Anthony Savage) know that the statement I (Anthony Savage) gave back then was wrong and this is the right thing to do at this time.

Anthony Savage 3091313
Anthony Savage

SUBSCRIBED AND SWORN TO before me
this 27 day of Jan 2005.

[Signature]
Notary Public for South Carolina
My Commission Expires: 3-30-2009

**My Commission Expires
March 30, 2009**

ANSWER FOR QUESTION 11

I That ~~Thaddeus~~ L. Curry was indicted MAY 10, 2004

I ~~Thaddeus~~ LARRY was also in COURT OF General

SESSIONS MAY 10, TERM 2004 A COPY OF MY

ARREST WARRANT WAS DELIVERED TO ME 4.17.03

MY ARREST WARRANT WAS SWORN AND SUBSCRIBED

BEFORE JUDGE PATRICK D. SULLIVAN 4.16.03

I WAS INDICTED A YEAR LATER MAY 10, 2004

RULE 3(C) UNDER CRIMINAL PROCEDURE IN THE SOUTH
CAROLINA RULES OF COURT HANDBOOK STATES.

(ACTION ON WARRANT) WITHIN (90) DAYS AFTER RECEIPT
OF AN ARREST WARRANT FROM THE CLERK OF COURT,

THE SOLICITOR SHALL TAKE ACTION ON THE WARRANT

BY (1) PREPARING AN INDICTMENT FOR PRESENTMENT
TO THE GRAND JURY, WHICH INDICTMENT SHALL BE
FILED WITH THE CLERK OF COURT, ASSIGNED A CRIMINAL
CASE NUMBER, AND PRESENTED TO THE GRAND JURY;

(2) FORMALLY DISMISSING THE WARRANT, NOTING ON
THE FACE OF THE WARRANT THE ACTION TAKEN.

OR (3) MAKING OTHER AFFIRMATIVE DISPOSITION
IN WRITING AND FILING SUCH ACTION WITH THE CLERK
OF COURT.

COUNSELOR MICHAEL CHESSEY DID NOT TIMELY MOVE
TO QUASH MY INDICTMENTS, COUNSELOR MICHAEL CHESSEY
DID NOT CHALLENGE THE LEGALITY AND SUFFICIENCY
OF THE PROCESS OF STATE GRAND JURY BEFORE THE
JURY RENDERED A VERDICT IN ORDER TO PRESERVE
THE ERROR FOR DIRECT APPELLATE REVIEW

I went to trial the same day I was indicted when it clearly states in the South Carolina State Rules of Court Hand Book Rule 40.(B) General Docket, TRIAL Roster, And Call of cases for TRIAL "Rule 40(B)"

That a case may not be called for TRIAL until it has been transferred to the Jury TRIAL Roster. TRIAL shall be had no earlier than 30 days from the date case first appears on Jury TRIAL Roster. Counster Michael Chesser did not timely move to quash my indictments, Counster Michael Chesser did not challenge the Legality and SUFFICIENCY of the process of state Grand Jury before the TRIAL Jury rendered a verdict in order to preserve the ERROR for DIRECT Appellate REVIEW
Counster Michael Chesser was Ineffective.

DOCKET NO. 2004-GS-02- 839

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

May 10, Term 2004

THE STATE

vs.

THADDEUS LORENZO CURRY

WITNESSES

Dilly D. Fleury, A.C.S.O.

P. 16

8036480888

ARREST WARRANT NUMBER

H249435

ACTION OF GRAND JURY

ANDERSON & ANDERSON

Travis B. H.
Tommy C. Taylor
Foreperson of Grand Jury
Date: May 6, 2004

VERDICT

Indictment for

MURDER

SC Code 16-3-10

CDR Code 116

Class FEL-EXM

Foreperson of Petit Jury

Date:

15:33

MAR-25-2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on May 10, 2004, the Grand Jurors of Aiken County present upon their oath:

MURDER

That THADDEUS LORENZO CURRY did in Aiken County on or about March 18, 2003, with malice aforethought, kill one Heath A. Hamilton by means of by shooting Heath A. Hamilton in the head with a firearm and said victim died as a proximate result thereof. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976); as amended.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Gudard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

JUL 24 2008

Liz Gudard

C.C.C.P. & G.S., Aiken County, SC
Antia Smith

Deputy Clerk

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

[Signature]

BARBARA R. MORGAN, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
STATE _____ VS _____

INDICTMENT/CASE#: _____

2004 -GS- 02 - 839
A/W#: H249435
Date of Offense: March 18, 2003
S.C. Code §: 16.3.10
CDR Code #: 0 1 1 1 1 6

CASE RESTORED
SENTENCE
 PLEA TRIAL

AKA: Inaddeus Lorenzo Curry
Race: Black Sex: Male Age: 25
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Augusta GA 30909
DL# _____ SID# GA 29593884

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Murder
in violation of § 16.3.10 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 1 1 6
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] Solicitor
Everette Chandler
Defendant: _____
Attorney for Defendant: Michael Chesser

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 1.5 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms:
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

Recipient:		
*Fine:	\$	
§14-1-206 (Assessments 107.5%)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33 7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 3.75
TOTAL		\$ 128.75

PRESIDING JUDGE: [Signature]
Judge Code: 2 1 1 1 3 17
Sentence Date: 4/13/09

Ann Sanders
Clerk of Court/ Deputy Clerk
Court Reporter: Brenda Sigwald

P. 20

8036480888

WITNESSES

Billy D. Fleury, A.C.S.O.

May 6 2004
(Signature)

ARREST WARRANT NUMBER

H249436

ACTION OF GRAND JURY

True Bill
(Signature)
Foreperson of Grand Jury
Date: May 6, 2004

VERDICT

Foreperson of Petit Jury
Date.

DOCKET NO. 2004-GS-02- 838

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

MAY 10, TERM 2004

THE STATE

vs.

THADDEUS LORENZO CURRY

**Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME**

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

I, Liz Cochran, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office.

May 14 2004

(Signature)
Liz Cochran
Clerk of Court

ANDERSON & ANDERSON

MAR-25-2009 15:34

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

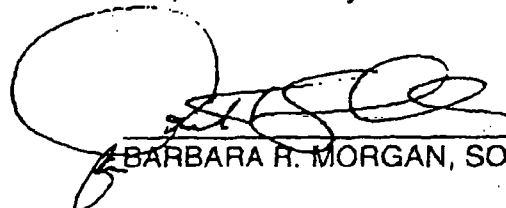
INDICTMENT

At a Court of General Sessions, convened on May 10, 2004, the Grand Jurors of Aiken County present upon their oath:

POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR ATTEMPT TO COMMIT A VIOLENT CRIME

That THADDEUS LORENZO CURRY did in Aiken County on or about March 18, 2003, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Murder, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BARBARA R. MORGAN, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
 STATE VS
Thaddeus Lorenzo Curry
 AKA:
 Race [Redacted] Sex Male Age: 25
 DOB: [Redacted]
 Address: [Redacted]
 City, S: [Redacted]
 DL# [Redacted]

INDICTMENT/CASE#: 2004 -GS- 02 - 838
 A/W#: H 249436
 Date of Offense: 3/18/03
 S.C. Code §: 16-23-490
 CDR Code #: 01 51 4 19
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Poss of Firearm During Comm of Violent Crime
 in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 01 51 4 19
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

[Signature]
 Solicitor
 Euanette Chandler

Defendant

[Signature]
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable"; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 5/13/04
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms:
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

Recipient:		
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75
TOTAL		\$128.75

[Signature]
 Clerk of Court Deputy Clerk
 Court Reporter Brenda Sigwalt

PRESIDING JUDGE [Signature]
 Judge Code: 2111313
 Sentence Date: 5/11/04

MAR-25-2009 15:36

ANDERSON&ANDERSON

8036480888

P. 23

ARREST WARRANT
H-249436
 STATE OF SOUTH CAROLINA
 County/ Municipality of
AIKEN COUNTY
 THE STATE 03-0010081
 against

THADDEUS L. CURRY
 Address **AUGUSTA GA 30909**
 Phone: **[REDACTED]**
 Sex: **M** Race: **B** Height: **5 9** Weight: **185**
 DL State: **GA** DL #: **[REDACTED]**
 DOB: **[REDACTED]** Agency ORI #: **0200**
 Prosecuting Agency: **SHERIFF DEPT**
 Prosecuting Officer: **BILLY D FLEURY**
 Offense: **POSS OF WEAPON DURING VIOLENT CRIME**
 Offense Code: **549**
 Code/Ordinance Sec. **549**

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
 The accused
 is to be arrested and brought before me to be
 dealt with according to law

Signature of Judge (L.S.)
 Date: _____

RETURN
 A copy of this arrest warrant was delivered to
 defendant **THADDEUS L. CURRY**
 on **4/17/03**
 Signature of Constable/Law Enforcement Officer: _____

RETURN WARRANT TO:
 MAGISTRATE TRAFFIC BOND COURT
 420 HAMPTON AVENUE NE
 AIKEN SC 29801

2004-GS-02-838

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
AIKEN COUNTY)

AFFIDAVIT

Form Approved by
 S.C. Attorney General
 July 28, 1990
 SCA 318

Personally appeared before me the affiant **BILLY D FLEURY** who
 being duly sworn deposes and says that defendant **THADDEUS L. CURRY**
 did within this county and state on **3/18/03** violate the criminal laws of the
 State of South Carolina (or ordinance of County/ Municipality of _____)
 in the following particulars:
 DESCRIPTION OF OFFENSE: **POSS OF WEAPON DURING VIOLENT CRIME**
16-23-490

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts
 UPON INFORMATION AND BELIEF ON THE 18TH DAY OF MARCH 2003
 THE SAID THADDEUS L. CURRY DID HAVE IN HIS POSSESSION AN UNKNOWN
 TYPE FIREARM TYPE 9MM CALIBER DURING THE CRIME OF MURDER, A
 VIOLENT CRIME. THIS INCIDENT TAKING PLACE ON CAREY DRIVE, BEECH
 ISLAND, SC, AIKEN COUNTY. THIS BEING IN VIOLATION OF CODE
 SECTION 16-23-490 AS AMENDED.

Sworn to and subscribed before me)
 on **4/16/03**)
 Signature of Issuing Judge)
Patrick D. Sullivan (L.S.))

Signature of Affiant
 Affiant's Address **ACSO, 420 Hampton Avenue, NE**
Aiken, SC 29801
 Affiant's Telephone **803-642-1761**

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
AIKEN COUNTY)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY
 It appearing from the above affidavit that there are reasonable grounds to believe that
 on **3/18/03** defendant **THADDEUS L. CURRY**
 did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of _____) as set forth below
 DESCRIPTION OF OFFENSE: **POSS OF WEAPON DURING VIOLENT CRIME**
16-23-490

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
 me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
 defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge **Patrick D. Sullivan** (L.S.))
 Judge's Address **420 HAMPTON AVE**
AIKEN SC 29801
 Judge's Telephone **803 642-7552**
 Issuing Court Magistrate Municipal Circuit

ORIGINAL

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Recast Petition for Post Conviction Relief has been served upon the following person by placing a copy of the same into the United States mail with the appropriate postage affixed thereto and addressed as follows:

SC Attorney General's Office
Attn: Mary Williams
Post Office Box 11549
Columbia, SC 29211

This 19th day of January, 2010.



WILLIAM J. SUSSMAN
ATTORNEY FOR PETITIONER

POST OFFICE BOX 6005
NORTH AUGUSTA, S. C. 29861
(803) 278-7227
SOUTH CAROLINA NO.: 005444